2001 GUIDE TO

Employment Standards

Prince Edward Island
CANADA

Community and
Cultural Affairs

103-02548/

Message From the Minister

This guide has been prepared to aid you in understanding this important piece of legislation and assist you in avoiding needless conflicts in employer/employee relationships.

Designed to clarify the rights and obligations of both parties governed by the *Employment Standards Act*, this guide should serve as a handy reference and contains basic and valuable information.

This guide is available with our compliments; however, our doors are always open should you have any labour relations inquiry. Feel free to call our offices at any time for more information. We are at your service.

Gail A. Shea

Gail A. Shea, Minister
Community and Cultural Affairs

Regional Services Centres and Briefing Sessions

Copies of the *Employment Standards Act* and complaint forms are available from:

Employment Standards Branch
31 Gordon Drive, Sherwood
PO Box 2000, Charlottetown, PEI C1A 7N8
Tel: 1-800-333-4362 or (902) 368-5550

West Prince Regional Services Centre
PO Box 8, O'Leary, PEI C0B 1V0
Tel: (902) 859-8800

Access PEI/Accès Î.-P.-É. Summerside Centre
120 Harbour Drive
PO Box 2063, Summerside, PEI C1N 5L2
Tel: (902) 888-8000

Evangeline Regional Services Centre
PO Box 58, Wellington, PEI C0B 2E0
Tel: (902) 854-7250

Southern Kings and Queens Services Centre
PO Box 1500, Montague, PEI C0A 1R0
Tel: (902) 838-0600

Johnny Ross Young Regional Services Centre
PO Box 550, Souris, PEI C0A 2B0
Tel: (902) 687-7000

Island Information Service
1st floor Jones Building
11 Kent Street, Charlottetown, PEI C1A 7N8
Tel: (902) 368-4000

Briefing Sessions
Group seminars, conducted by staff from the Employment Standards Branch, are available to parties wanting further clarification of the act.

New employers are encouraged to arrange an individualized seminar or briefing session for their personnel/payroll staff.

Introduction

The Guide to Employment Standards in Prince Edward Island was developed to help both the employer and employee better understand the intent of the employment standards legislation.

Legislation cannot cover every possible conflict which may occur in the work place; for this reason, the Employment Standards Branch of Community and Cultural Affairs has developed policies to help resolve matters in a reasonable and fair manner.

The *Employment Standards Act* is the main reference throughout this guide. Other acts and regulations include: *Workers Compensation Act, Youth Employment Act, Labour Act, Human Rights Act* and the Standard Work Week Exemption Order. Copies of all provincial acts and regulations may be purchased from Island Information Service, First floor Jones Building, 11 Kent Street, Charlottetown, PEI.

Please Note
This handbook is meant to serve as a guide only and is not a legal document. The reader is strongly advised to consult the appropriate provincial act. Neither the authors nor the Province of Prince Edward Island are bound by statements made herein. Where any difference exists between this guide and the appropriate provincial act, the act will be considered correct.

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Application

The *Employment Standards Act* applies to all employers and employees with the following exceptions:

1. Only Section 30 of the act, pertaining to payment and protection of pay, applies to:

   a) salespersons whose income is derived primarily from commission on sales; and

   b) farm labourers (this does not include employees in an undertaking that in the opinion of the board is a commercial undertaking).

2. Section 5 of the act, dealing with minimum wage, and Section 15, dealing with hours of work, do not apply to:

   a) persons employed for the sole purpose of protecting and caring for children, handicapped or aged persons in private homes; and

   b) employees of a non-profit organization who are required by terms of their employment to live-in at a facility operated by the organization.

3. For employees covered by a collective agreement, only the provisions of the act relating to parental, maternity and adoption leave; sexual harassment; and payment and protection of pay apply.

Reference: Section 2
Employment Standards Act

Banking of Overtime

Employers are required to pay employees for hours worked in excess of the standard work week (Section 15.1). The act makes no provision for the banking of overtime hours and those who attempt to do so are subject to penalties (Section 38). If an employer attempts to bank overtime, the employee is obligated to discuss their concern regarding this practice with their employer and request overtime pay entitlement. If the employer continues to refuse payment of overtime entitlement, the employee is responsible to **contact the Employment Standards Branch immediately** to file a complaint.

Once employment is terminated, recovery of outstanding overtime pay may be jeopardized.

Reference: Sections 15 and 38
Employment Standards Act

Bereavement Leave

An employee is entitled to an unpaid leave of absence of up to three consecutive days on the death of a member of the employee's immediate family.

The immediate family means spouse, common-law spouse, child, parent, brother or sister.

Reference: Section 23
Employment Standards Act

Collusion

An Employment Standards Branch inspector may decide not to handle wage recovery complaints in cases where an employee voluntarily and without duress makes working arrangements with their employer which violates the act.

For example, if an employee voluntarily agrees to work overtime hours at straight time rates, time off in lieu or bank hours; overtime recovery payment may not be attempted by the inspector should that employee quit, get fired or be laid off.

Any employer and employee who agree to such arrangements are guilty of an offence and subject to the penalties.

Reference: Section 38
Employment Standards Act

Commission Salespersons

Salespersons who derive their primary source of income from commission on sales are considered exempt from the act.

Individuals whose wages are comprised of salary plus commission are considered to be employees under the act if salary represents the majority of their wages.

Reference: Section 2
Employment Standards Act

Contract Employees

A person hired to perform a specific amount of work for an agreed-upon price must be made aware by their employer that they have been hired as a self-employed person. It is the responsibility of the employer to confirm with an Employment Standards Branch inspector that the contract employee was made aware they were hired as a self-employed person, that the amount agreed upon is all monies to be paid and that the employer has no further obligations under the act, i.e., vacation pay, statutory holidays, etc.

Deductions From Employee's Pay

Cash Shortages
Employers cannot make any deduction from an employee's pay to cover cash shortages if the employee does not have sole control of the cash and the cash cannot be secured by the employee when it is necessary to leave it unattended. If a cash shortage occurs, the employer should advise the employee, at the end of the employee's shift and permit the employee the opportunity to explain or find the shortage. If an employer can verify to the satisfaction of an inspector that an employee is responsible for a cash shortage before the end of the employee's pay period during which the cash shortage occurred, the employer may deduct the amount of the cash shortage from the employee's pay.

Pay Deductions
Employers cannot make any deduction from an employee's pay except where the deduction is:

1. required or authorized by statute;
2. mutually agreed upon by the employer and the employee;
3. ordered by a court;
4. the result of a previous advance of wages to the employee;
5. as a result of a previous advance of vacation pay to the employee; or
6. authorized by the Minimum Wage Order.

Uniforms
Employers cannot deduct pay from an employee for uniforms or footwear which are unique to the employer's business operation and for which the employee would have no practical use if employment is terminated. An employer may require a deposit of up to 25 percent of the cost of a corporately identified uniform. The deposit must be reimbursed when employment ends and the uniform returned to the employer. Employers should have employees sign for receipt of various items of the uniform.

Reference: Minimum Wage Order and Regulations

Discrimination Against a Complainant

An employer cannot discriminate against an employee because the employee has made a complaint under this act or has testified or is about to testify in any proceedings relative to enforcement of this act.

Reference: Section 35
Employment Standards Act

The Employment Standards Board

The Employment Standards Board is the independent and impartial tribunal responsible for the day-to-day application and interpretation of the Prince Edward Island employment standards legislation. The board consists of eight members, three representing labour, three representing management and a neutral chair and vice-chair and has the authority to hold hearings, issue decisions and remedy any conduct found to be contrary to the act.

The board meets at least once a year to review the Minimum Wage Order and has the authority to specify when and under what conditions deductions may be made from the wages of an employee and what notification the employee should be given prior to such deduction.

Board Hearings
When a formal complaint is received by the Employment Standards Branch, an inspector investigates the complaint and issues to the complainant a verbal or written decision. Where the employer or employee feels the inspector erred in their decision, either party may appeal to the Employment Standards Board for a hearing for final resolution of the matter.

Board hearings are less formal than a court trial and any affected party may bring their own witnesses. Hearings are usually held in the Hearing Rooms at 31 Gordon Drive, Charlottetown. During the board's proceedings, only those directly affected by the matter, or their representatives, may participate. The board's rulings are final and binding. All board decisions can be filed in court, if need be; and once filed, can be enforced as a court order.

While there is no appeal from board decisions, the court does have the power to review those decisions and set them aside if they exceed board powers under the act or involve an interpretation of the law that is obviously unreasonable.

The board also has the power to reconsider any of its own decisions. The circumstances under which the board will do so are limited.

The board does not deal with employers and employees whose terms and conditions of work are established by a collective agreement pursuant to the *Labour Act* except for provisions relating to maternity, parental and adoption leave, sexual harassment and those provisions relating to pay and protection of pay as found in this guide.

Reference: Sections 4 and 5
Employment Standards Act

Employment Records

An employer must make and keep in Prince Edward Island, for a period of 36 months after work is performed by an employee, complete and accurate records pertaining to the employee.

An employer who fails to keep records or keep them up to date and who fails to give information or provides false or misleading information to the inspector may be guilty of an offence and subject to penalties under Section 38 of the act.

Reference: Sections 33 (1) and 38
Employment Standards Act

Filing a Complaint

You may feel that your employer/employee has acted in a manner that violates the *Employment Standards Act*. If this happens, you can file a complaint with the Employment Standards Branch. Complaint forms are available at all Regional Service centres. (A sample Complaint Form is available at the end of this brochure.)

The complainant is expected to file all documentation and information in their possession relevant to the complaint. The complainant is expected to have attempted to resolve the matter with their employer/employee **prior to filing a complaint**.

When an inspector begins to investigate a complaint, they will talk to the person who made the complaint to clarify all issues in dispute. If the inspector finds the respondent has violated the *Employment Standards Act*, the inspector will talk to the respondent about the problem and how to correct it. Correcting it may mean: keeping better payroll records, compliance with specific sections of the act or paying money that the inspector has determined the respondent owes.

If the respondent does not agree with the inspector, the inspector may issue an order that states what the respondent must do to ensure that the *Employment Standards Act* is followed and how long the respondent has to make that happen. The order also gives the respondent a chance to appeal the decision to the Employment Standards Board. The respondent has 10 working days from the day they received notice of the decision to file an appeal. Failure to respond within the 10-day time limit will result with a judgment being filed in the Supreme Court of Prince Edward Island.

The inspector, after investigation of the complaint, also has the option of referring the matter to the Employment Standards Board for final determination.

Reference: Section 30 (22)
Employment Standards Act

Full-time, Part-time and Casual Designation

The *Employment Standards Act* makes no distinction between an employee's work classification.

The employer has the right to schedule all hours of work and overtime as long as it complies with the requirements of the act.

Reference: Section 15
Employment Standards Act

Hiring An Employee

An employer should clearly define the conditions of employment at the time of hiring. It is in everyone's best interest to do so and, when possible, the conditions of employment should be in writing.

The employer should deal with the following issues at the time of hiring:

1. make the employee aware for whom they are working and the main tasks they will be performing;
2. the wage rate and method of payment (cheque, direct deposit, cash – if cash is the method of payment, the employer must obtain signed receipts);
3. any deductions from the pay cheque besides the statutory deductions;
4. where applicable, the sum charged for room and board or the sum withheld for a uniform;
5. the employee's work schedule;
6. the normal work week;
7. the payment of overtime;
8. the duration and time of the meal and rest period (paid or unpaid);
9. insurance plans;
10. coffee breaks;
11. ensure all company policies and rules are explained to the employee or signed by the employee;
12. sexual harassment policy; and
13. explain to the employee how and when gratuities will be distributed, if you collect them on the employee's behalf.

Home Care Service

Section 5 (wages) and Section 15 (hours of work) do not apply to persons employed to care for individuals in private homes. When hiring an employee for health care, whose service is not provided by a health care operation, it is important that both parties are aware of duties expected and benefits to be provided. The agreed-upon arrangements should be documented and signed by both parties.

Persons who employ the services of a home-care worker, without utilizing the services of a hiring agency, should contact:

> Revenue Canada, Business Services (Source Deductions)
> Telephone 628-422[illegible] in Charlottetown or
> Toll-free 1-800-959-5525

for confirmation of the employer/employee relationship and the financial obligations that may apply.

Meal and Rest Periods

An employee is entitled to one half-hour unpaid break every five consecutive hours. This half-hour break cannot unreasonably be denied. Occasions do arise in certain circumstances where employees do not get the full half-hour break at one time; and in such circumstances, the employer must pay for the half hour.

There is no obligation on the part of the employee to remain on the premises of the employer during the half-hour unpaid break.

Every employee is entitled to a rest period of at least 24 consecutive hours in every seven-day period and whenever possible the rest period shall include Sunday.

Reference: Sections 16(1) and (2)
Employment Standards Act

Notice of Termination

The first six months of employment is considered a probationary period. During this period, the employer may terminate an employee without any requirement for notice or compensation. The employee, likewise, can terminate their employment without any requirement for notice or penalty.

After six continuous months employment, but less than five years, the employer must give the employee at least two weeks notice or two weeks pay in lieu of notice at the employee's regular rate of pay unless the employee was terminated for just cause. **An employer cannot reduce the hours of work of the employee during the notice period.** The employer cannot consider vacation time as part of the notice period. The employee must give the employer one weeks notice for the same employment period unless they leave for just cause.

After five continuous years employment, the employer is required to provide four weeks notice of termination. The employee is required to provide two weeks notice for the same period.

The act requires that both parties provide written notice but situations can arise where this does not happen. When the inspector can confirm verbal notice was provided by either party, in order to resolve the matter in a fair and reasonable manner, will allow such notice.

In order to end an employee's job without notice or pay in lieu of notice, the employer must show that they have just cause.

> **Example:** The employer has made their expectations clear to the employee and has warned them that not improving their behaviour could lead to their being dismissed.

There are situations, such as theft, where the above criteria would not apply. The employer, however, must be able to confirm their allegation of theft or must have initiated prosecution proceedings at which time the inspector will suspend further proceedings until the court or police have concluded their findings.

Employers should consider the implementation of a progressive discipline policy which could involve a verbal warning, written warning, then termination of the employee. The discipline should depend on the severity of the situation.

Condonation becomes an issue when the employer has not corrected a past behaviour, ignores an employee's poor performance at work and then finally dismisses the employee for the same poor behaviour. An employee has to be told that the employer will no longer tolerate the poor performance. The employee must understand the consequences if their performance does not improve.

There are certain circumstances where the employer does not have to provide notice of termination such as,

1. complete or partial destruction of the place of employment;
2. destruction or breakdown of machinery or equipment;
3. inability to obtain supplies or materials; or
4. cancellation, suspension, or inability to obtain orders for the products of the employer.

Any agreement made between the parties which provide for more notice of termination than that provided for in the act, prevails over the act.

Prior to terminating long-term employees, it is advisable for the employer to seek legal advice on what would constitute appropriate compensation.

Shortage of work does not justify termination without notice unless it meets the criteria in Section 29.

Reference: Section 29
Employment Standards Act

Orientation

In certain instances the employer may request that a new employee participate in a short orientation period without pay to become familiar with the organization and learn the techniques involved with the job. This arrangement is allowed provided the individual agrees to the orientation period and the individual **does not physically perform work for the employer which would provide financial gain or otherwise be performed by another employee.**

Paid Holidays (Statutory Holidays)

The *Employment Standards Act* gives employees who qualify, five paid holidays per year. The holidays are Christmas Day, New Year's Day, Good Friday, Canada Day and Labour Day.

In order to qualify for these holidays an employee must:

1. be employed 30 calendar days prior to the holiday;
2. have earned wages on 15 of the 30 calendar days prior to the holiday; and
3. have worked their **last scheduled shift** prior to the holiday and **first scheduled shift** after the holiday.

An employee employed under an arrangement whereby they may elect to work or not to work when requested to do so **does not qualify**. An employee on a scheduled vacation leave would qualify for the holiday.

An employee who qualifies for the paid holiday must be paid their regular day's pay they would have normally received for that day plus time and one half their regular rate of pay for the hours worked **or** be paid their regular day's pay and given another day off with pay.

An employee who is not scheduled to work on a paid holiday, is entitled to another day off with pay.

To calculate the holiday pay owing to an employee with varying work hours, the employer must total the number of hours the employee worked in the 30 calendar days prior to the holiday and divide the total hours by the number of days worked in that same 30-day period.

> **Example:** If an employee worked a total of 80 hours in the 30 calendar-day period prior to the holiday and it took 20 days to work the 80 hours, the employee would be entitled to four hours pay for the holiday.

Reference: Sections 6, 7 and 9
Employment Standards Act

Parental, Maternity and Adoption Leave

Maternity leave is an unpaid leave of absence granted to pregnant employees, which can last up to 17 weeks. The employee can start the leave up to 11 weeks before the expected date of delivery and may take leave up to six weeks after the date of delivery. Employees who have worked for the employer 20 continuous weeks are eligible for this leave.

An employer can require that an employee take an unpaid leave of absence up to three months if her pregnancy interferes with her work.

The *Employment Standards Act* also allows parents to take **parental leave** to care for their newborn children. To qualify, an employee must have worked for the employer 20 continuous weeks. Unpaid leave can be taken for up to 35 weeks. The total leave for both parental and maternity leave cannot exceed 52 weeks.

Adoption leave provides for 52 weeks leave. To qualify, an employee must have worked for the employer 20 continuous weeks. The combined adoption leave for both parents cannot exceed 52 weeks. Leave must be taken within 12 months of the child's arrival in the home.

To take maternity/parental/adoption leave, an employee must give the employer at least four weeks written notice of both the date on which they will be going on leave and the date they plan to return to work.

If an employee is taking both maternity and parental leave, she must take them consecutively and cannot return to work between the two leaves.

The employer may allow the employee to return to work early if the employee provides the employer with two weeks written notice of the intended date of return.

When an employee returns from maternity/parental/adoption leave, he or she must be accepted back into the same position or a comparable one with no loss of seniority or benefits.

The changes to the *Employment Standards Act*, as outlined above, do not apply to maternity/parental/adoption leave prior to December 31, 2000.

Reference: Sections 18 to 22
Employment Standards Act

Pay Stubs

Every employer must furnish to every employee, at the time wages are being paid, a statement in writing, showing the following:

1. name and address of the employer and name of the employee;
2. the period of time or the work for which the employee is being paid;
3. the rate of wages to which the employee is entitled and the number of hours worked;
4. the gross amount of wages to which an employee is entitled;
5. the amount and purpose of each deduction;
6. any bonus, gratuity, living allowance or other payment to which the employee is entitled; and
7. the net amount of money being paid to the employee.

Reference: Section 30
Employment Standards Act

Pay Periods

An employee's pay period must not exceed 16 days. In the event that employment is terminated, an employee must be paid no later than the next regular pay period after the one in which their employment ceased.

The Employment Standards Branch might not accept a complaint about unpaid pay if the employee has sued the employer in court or if the employer has taken a court action against the employee for theft or unpaid monies. Any action by the branch may be delayed until after final disposition by the court.

Reference: Section 30
Employment Standards Act

Piece work

Some employers pay employees by the amount they produce and not by the hour. This arrangement is called "piece work." An employer cannot pay an employee less for piece work than the employee would have earned at the minimum wage for the number of hours worked.

Policy and Procedures Manuals

When a company has an established policy which provides greater benefit than that derived under the *Employment Standards Act*, the employer is required to honour that policy.

Powers of the Inspector

To ensure that the provisions of the act are complied with, an inspector may enter premises where a person is or has been employed at any reasonable time for the purpose of inspection, investigation or examination of conditions of employment. The inspector may inspect, examine and take extracts from all books, payrolls and other records of an employer that in any way relate to conditions of employment affecting any of the employer's employees.

Reference: Section 33(4)
Employment Standards Act

Records of Employment (ROE's)

The Employment Standards Branch does not recover records of employment. The record of employment is a federal document over which the Employment Standards Branch has no control.

For further information, contact Human Resources Development Canada, telephone (902) 566-7781.

The only time an inspector will deal with an ROE is during the investigation of a complaint filed under the *Employment Standards Act*.

Reporting Pay

A work shift must not be scheduled for less than three hours. Each time an employee is required to report to work, they must be paid for at least three hours.

Staff meetings or other similar call-ins which are **optional** do not have to be paid for by the employer; but to encourage attendance, the employer has the option of paying the employee their regular rate of pay for the meeting period.

Staff meetings or call-ins which are **mandatory** must be compensated at no less than three hours.

The responsibility lies with the employer to effectively schedule their employees to avoid unnecessary call-ins and staff meetings.

Reference: Section 17
Employment Standards Act

Right to Return to Work

If a non-construction worker has been employed for a continuous one-year period and is injured at work, their employer cannot dismiss, suspend, lay-off, penalize, discipline or discriminate against the worker because the worker suffered personal injury by accident provided the worker is entitled to compensation under the *Workers' Compensation Act*.

The employer is required to hold the employee's position, or an equivalent position, with no decrease in pay and with no loss of seniority or benefits accrued up to the commencement of that period, for the duration of one year.

Where a construction worker suffers an injury by accident to which the worker was entitled to compensation and in opinion of the Workers' Compensation Board is able to resume work, the employer shall permit the worker to resume work in the position the worker held immediately before the commencement of the period in which the worker was entitled to compensation.

The construction project and position must exist at the time the worker is able to resume work.

Reference: Section 86
Workers Compensation Act

Sexual Harassment

Every employee is entitled to employment free from sexual harassment. The employer has an obligation to ensure that no employee is subjected to sexual harassment. Every employer has an **obligation to have a sexual harassment policy posted on their premises** where it is readily available to all employees. All employees must be made aware of the policy and its requirements. Employers may utilize the following generic policy established by the Employment Standards Branch.

1. Sexual Harassment means any conduct, comment, gesture or contact of a sexual nature:

   a) that is likely to cause offense or humiliation to any employee; or

   b) that might, on reasonable grounds, be perceived by that employee as placing a condition of a sexual nature on employment or on any opportunity for training or promotion.

2. Every employee is entitled to employment free of sexual harassment.

3. The employer will make every reasonable effort to ensure that no employee is subjected to sexual harassment.

4. The employer will take appropriate disciplinary measures against any person under its direction who subjects an employee to sexual harassment.

5. Complaints of sexual harassment may be made to the employer or the supervisor. The supervisor to whom a complaint is made will ensure that it is brought to the attention of the employer.

6. The employer will not disclose the identity of a complainant except where disclosure is necessary for the purposes of investigating a complaint or taking disciplinary measures in relation to a complaint.

7. Employees are advised that the *Human Rights Act* (RSPEI 1988, Cap. H-12) prohibits discrimination on the basis of sex which has been interpreted as including sexual harassment. Any person alleging discrimination has a right to file a complaint with the PEI Human Rights Commission under the act.

Reference: Sections 24 to 28
Employment Standards Act

Section 1(1) (d)
Human Rights Act

Standard Work Week/Extended Hours of Work

The standard work week in Prince Edward Island is 48 hours. Work performed beyond 48 hours shall be paid at time and one-half the employee's regular rate of pay.

Due to down time, the seasonal nature and the effect weather conditions have on certain industries, the Employment Standards Board has issued an Exemption Order extending overtime hours to some specific industries as follows:

1. heavy equipment operators – 55 hours
2. seasonal highway construction workers – 55 hours
3. fish processing industry
   a) inside workers – 55 hours
   b) outside workers – 75 hours
4. peat moss industry – 60 hours
5. community-care facility workers – 60 hours
6. ambulance drivers – 60 hours
7. truck drivers – 55 hours
8. sandblasting – 60 hours

Reference: Section 15
Employment Standards Act
Standard Work Week Exemption Order

Vacation Pay

After working for 12 continuous months with an employer, an employee is entitled to an unbroken vacation of at least two weeks. This vacation leave must be given to the employee no later than four months after completion of the 12-month period. (This four-month period can be varied if mutually agreed upon by the employer and employee.)

The employee must be given advance notice of one week when their vacation is to begin. At least one day before the employee's vacation begins, the employee must be paid an amount equal to four percent of the employee's wages for the 12-month period the employee earned the vacation.

In the event that employment is terminated and the employee has worked less than 12 continuous months, the employee is entitled to four percent of their gross earnings as vacation pay. They must receive the vacation pay before the end of the next regular pay period after their employment ceases.

When a statutory holiday occurs during the employee's vacation period, the employee's vacation shall be lengthened by one working day and the employee paid for that day.

Statutory deductions apply to vacation pay.

Sick leave with pay cannot be considered as vacation with pay or pay in lieu of vacation.

For seasonal and short-term employees, an employer can include vacation pay in an employee's hourly rate as a separate item on each pay cheque, or as a lump sum at the completion of the employment contract provided:

1. the employer can provide proof the employee knows that vacation pay will be paid at the hourly rate on every pay cheque;

2. that the payroll records show vacation pay was paid on every pay cheque; or

3. the employee's pay stub indicates that vacation pay is included in the pay cheque.

If the above-noted criteria are not maintained, the inspector may deem vacation pay unpaid and order payment.

Any vacation pay agreement between an employer and employee which is better than that provided by the act takes precedent.

Reference: Sections 11 and 14
Employment Standards Act

Work Periods

It is not unreasonable for an employer to request an employee to be on the work premises 15 minutes early to confirm they are ready for their shift. If an employee commences work in that 15 minutes, they must be paid for the time worked.

Employees working scheduled shifts, cannot be required to work beyond the shift for no pay.

An employer **who asks or tells an employee to wait at the place of work** must consider that time as work time. This means that the employer must pay the employee for all hours **including waiting time**.

Youth Employment Act

The *Youth Employment Act* governs when and under what circumstances children may be employed in Prince Edward Island. The laws about children's employment do not apply to people who are 16 years and over.

No one is to employ a child under the age of 16 in any work that risks the child's well-being. **No employer is allowed to employ a child in construction.**

An inspector or occupational health and safety officer may enter any premises in which a young person is employed to ensure compliance with the *Employment Standards Act* or the *Occupational Health and Safety Act*.

If the occupational health and safety officer determines that any toxic substance, machinery or equipment in use in any industrial undertaking or used in any plant engaged in the processing of fish, agricultural products or forest products is potentially dangerous to young persons, the officer may prohibit the employment of young persons in that undertaking or plant.

An employer who employs a young person is required to:

1. act reasonably in assigning duties, taking into account the age, knowledge, education and work experience of the young person;
2. identify any potential danger to health and safety and give appropriate instruction to the young person;
3. personally supervise the work of the young person or ensure that at all times the work of the young person is supervised by an adult who has experience of the work; and
4. provide adequate training and courses of instruction before authorizing the young person to perform unsupervised work.

Reference: Sections 7 and 8
Youth Employment Act

Prince Edward Island
CANADA

Community and Cultural Affairs

Employment Standards Branch

PO Box 2000
Charlottetown
PEI C1A 7N8
Tel: (902) 368-5550
Fax: (902)368-5526

Complaint filed under the *PEI Employment Standards Act*

Information of Complainant

Employers name: Address: Sample Tel: Owners name: Managers name:	Complainant's name: Address: Tel: Sample Job title (if applicable): Employment period: fm: to: Reason for termination: Lay off quit dismissed: Hours of work per week: Rate of pay: Amount of monies owed:

Nature of Complaint:

Remedy Requested:

List (if any) conditions or arrangements agreed to between yourself and your employer at time of hiring or during your employment period which may have an affect on this claim.

Do you owe the employer any monies? If yes, please describe:

Do you have possession of any goods or equipment of the employer?
If yes,please describe:

List persons (if any) who can help verify your claim:

Name: Job duty:
Address: Sample Tel:
Nature of information witness can provide:

Name: Job duty:
Address: Sample Tel:
Nature of information witness can provide:

Description of claimant's job duties:

Additional claimant information:

Before filing this claim with the Employment Standards Branch, you must make your employer aware of the basis of your complaint and attempt to resolve the matter. The results of your discussion should be listed below:

Please attach copies of all documents which help support your claim such as pay statements, cheques, dates of days worked and hours worked per day, record of employment, etc.

I, _____ , claim the information provided is correct and factual to the best of my knowledge.

Name: _____ Date: _____